

Message Text

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17

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 NSAE-00 NSCE-00

SSO-00 USIE-00 INRE-00 AGR-05 CEA-01 COME-00 FRB-01

H-01 INR-07 INT-05 L-02 LAB-04 NSC-05 PA-01 RSC-01

AID-05 CIEP-01 SS-15 STR-01 TAR-01 TRSE-00 PRS-01

SP-02 OMB-01 FEA-01 /081 W
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FM AMEMBASSY BUCHAREST

TO SECSTATE WASHDC IMMEDIATE 1425

INFO USEC BRUSSELS 0309

C O N F I D E N T I A L BUCHAREST 0188

USEC BRUSSELS FOR INFO LANDE

E.O. 11652: GDS

TAGS: EEWT, RO

SUBJ: US-ROMANIAN TRADE AGREEMENT: POSSIBLE MODIFICATION OF
ARTICLE XII PARA 2 RELATING TO DURATION

REF: BUCHAREST 0161 (NOTAL)

1. PRECEDING JANUARY 15 AFTERNOON SESSION, ROMANIAN SPOKES-
MAN ZARA ADVISED LORIMER THAT GOR DELEGATION WISHED TO
DISCUSS ARTICLES III (SAFEGUARDS) AND XII (DURATION) SO AS
TO COVER ALL KEY ISSUES BY END OF DAY. ZARA CONFIRMED
NICOLAE READY TO MEET WITH AMBASSADOR JANUARY 16 TO REVIEW
PROGRESS (MEETING SET FOR 3 P.M.). SAFEGUARDS COVERED SEPTTEL.

2. ON ARTICLE XII, ZARA MADE THESE POINTS;

(A) WHEN PROBLEMS ARISE, THE PARTIES SHOULD INITIATE
CONSULTATIONS WITH A VIEW TOWARD MAINTAINING UNHINDERED
RELATIONS.

(B) SHOULD CONSULTATIONS FAIL, EITHER PARTY SHOULD
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HAVE RIGHT TO TERMINATE ALL OR PART OF AGREEMENT.

(C) TERMINATING PARTY HAS OBLIGATION TO GIVE AFFECTED PARTY PRIOR NOTICE AND INITIATE PRIOR CONSULTATIONS.
(D) ATTEMPT SHOULD BE MADE TO SHELTER PRE-EXISTING CONTRACTS FROM PREJUDICE.

3. ALTHOUGH WE RESPONDED FAVORABLY TO CONSULTATIONS IDEA AND FEEL IT SHOULD BE ACCEPTABLE, WE REITERATED NEED FOR ABILITY TO TERMINATE ALL OR PART OF AGREEMENT (GOR EMPHATICALLY AGAINST TYING TERMINATION RIGHTS EXPRESSLY TO ARTICLE I) IN EVENT OF REVOCATION OF WAIVER AUTHORITY OR REJECTION OF 402 REPORT. GOR MADE STRONG PITCH FOR REQUIREMENT OF PRIOR CONSULTATIONS BEFORE UNILATERAL TERMINATION (AS WELL AS REQUIREMENT FOR ADVANCE NOTICE OF INTENT TO TERMINATE AND PROVISION PROTECTING EXISTING CONTRACTS FROM IMPAIRMENT BY VIRTUE OF TERMINATION OF, E.G. MFN).

4. FOLLOWING TEXT OF ARTICLE XII PARA 2, WHICH ATTEMPTS TO ACCOMMODATE GOR CONCERNS AND US LAW, WAS DRAFTED IN AFTERNOON SESSION AS ARTICULATION OF ROMANIAN PROPOSAL FOR FURTHER CONSIDERATION BY BOTH SIDES:

BEGIN TEXT

2. (A) THE INITIAL TERM OF THIS AGREEMENT SHALL BE THREE YEARS, SUBJECT TO SUBPARAGRAPH (C).

(B) IF EITHER PARTY ENCOUNTERS OR FORESEES A PROBLEM WITH RESPECT TO THE APPLICATION OF THIS AGREEMENT, INCLUDING A PROBLEM CONCERNING ITS DOMESTIC LEGAL AUTHORITY TO CARRY OUT ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, SUCH PARTY SHALL REQUEST IMMEDIATE CONSULTATIONS WITH THE OTHER PARTY. TO THE FULLEST EXTENT PRACTICABLE, NEITHER PARTY SHALL TAKE ACTION UNDER SUBPARAGRAPH (C) UNTIL SUCH CONSULTATIONS CAN BE COMPLETED.

(C) IF EITHER PARTY IS UNABLE TO CARRY OUT ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, EITHER PARTY MAY SUSPEND OR TERMINATE THE APPLICABILITY OF ALL OR ANY PART OF THIS AGREEMENT. IF EITHER PARTY TAKES ACTION UNDER THE PRECEDING SENTENCE, THAT PARTY WILL, TO THE FULLEST EXTENT PRACTICABLE, SEEK TO MINIMIZE DISRUPTION TO EXISTING TRADE RELATIONS BETWEEN THE TWO COUNTRIES.

(D) THIS AGREEMENT MAY BE EXTENDED FOR SUCCESSIVE PERIODS OF UP TO THREE YEARS EACH BY MUTUAL AGREEMENT. END TEXT

5. WE MADE CLEAR TO ROMANIANS OUR PREFERENCE FOR REFERENCE CONFIDENTIAL

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IN SUBPARAGRAPH (C) TO QUOTE ANY MATERIAL OBLIGATION UNQUOTE RATHER THAN QUOTE ANY OF ITS OBLIGATIONS UNQUOTE AS ABOVE. IN OUR VIEW LATTER FORMULATION COULD BE CONCEIVABLY INVOKED TO REQUIRE CONSULTATIONS CONCERNING ALTERATION OF DOMESTIC LAWS OR PRACTICES THAT DO NOT MATERIALLY AFFECT US-ROMANIAN TRADE RELATIONS. ROMANIANS, HOWEVER, RESISTED THIS, AND WE DO NOT FEEL STRONGLY ABOUT THE POINT.
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